

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

MARSHA LILLY,)	
)	
Plaintiff)	
)	No. 3:10-1178
v.)	Judge Campbell/Brown
)	Jury Demand
CITY OF CLARKSVILLE, <i>et al.</i> ,)	
)	
Defendants)	

O R D E R

The Defendants have filed a motion (Docket Entry 68) to ascertain the status of their motion for attorneys' fees and costs (Docket Entry 62). Also pending in connection with the motion for attorneys' fees and costs is a motion for leave to file a fee bill (Docket Entry 64).

The motion to ascertain the status is **GRANTED**. This case is pending on referral from Judge Campbell (Docket Entry 67) and the Magistrate Judge will prepare a report and recommendation when he can get to it. This case is behind a number of Social Security cases, which by law take priority over other cases. Additionally, the Defendants have complicated this matter by combining costs, which may be taxed by the Clerk with attorneys' fees, which must be taxed by the District Judge. They further complicated corn flakes by wanting a ruling on whether they get attorneys' fees before telling the Court what the attorneys' fee will be. This process will require a report and recommendation, likely objection, and if attorneys fees are allowed, another report and recommendation on the amount which will likely draw still more objections.

In an effort to resolve this matter in a simpler form the motions are set for oral argument May 23, 2013 at 10:00AM. Parties shall call the magistrate judges conference call number 615 695 2851 at that time. Defendant will submit to the Magistrate Judge and the plaintiff an estimate of the attorney fees they seek and whether it includes the appeal. They should be prepared to discuss the issues raised in the plaintiff's brief to which defendants did not reply. Costs will likely be allowed, however the amount of the expert fee, the need for deposition of the defendants employees, and whether this case is an unusual one that justifies attorneys fees and if so for what part of the case will be discussed. The magistrate judge is concerned that the plaintiff abandoned a number of claims during summary judgment and again on appeal. This could lead to a conclusion they should have been abandoned far earlier.

The parties are free to agree on any of these amounts before the hearing and they are directed to confer with each other about the amounts involved at least three days prior to the hearing.

It is so ORDERED.

/s/ Joe B. Brown
JOE B. BROWN
United States Magistrate Judge